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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.  | CONFIRMATION NO. |
|-----------------|-------------|----------------------|----------------------|------------------|
| 09/584,520      | 05/31/2000  | Claude M. Leglise    | INTL-0391-US (P8805) | 1973             |

7590 05/11/2005

Timothy N Trop  
Trop Pruner & Hu PC  
Suite 100  
8554 Katy Freeway  
Houston, TX 77024

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| EXAMINER |
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RETTA, YEHDEGA

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

3622

DATE MAILED: 05/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/584,520

Applicant(s)

LEGLISE ET AL.

Examiner

Yehdega Retta

Art Unit

3622

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 13 April 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

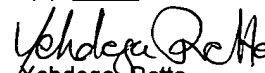
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

  
Yehdega Retta  
Primary Examiner  
Art Unit: 3622

Continuation of 11. does NOT place the application in condition for allowance because: Applicant in his argument provides explanation on how the term "control" is used in the specification and provides support to show that "control" includes restraint. Applicant states that the service provider may remotely manage the client to overcome a problem ...and the service provider's responsibilities in maintaining a client in working order may be to control the user's ability to add additional hardware or software to the client system...thus if the user were to try to add software or hardware that would lead to problem the service provider could control the addition of the hardware or software.

Examiner would like to point out the only section applicant's specification discloses this feature is on page 11, which states "(I)n some embodiments of the present invention, the service provider 16 is responsible for maintaining the client system 12 in working order. As a result, the service provider 16 may control the user's ability to add additional hardware or software to the client system 12. This ensures the possibility of unexpected software or hardware problems". Nothing is disclosed that indicated how the user is restrained or prevented from performing the step of adding software or hardware. The term "restraining the customer's ability to add software" and "preventing the customer from adding software" is interpreted by the Examiner to mean the same as "controlling the customer's ability to add software".

The prior art as discussed previously in the office action also teach the service provider controlling the user's ability to add additional software. The prior art teaches, using the SoftCast, the ISP pushes content to a user computer and makes changes to the computer and pushes software updates, ... and can also fix problems including errors and software bugs... and update thirdparty software (see 78 and 80). Since the prior art pushes software needed by the customer and makes the software available for the user to download, the system controls the user from downloading any other software, by selectively making available software that are downloadable by the client. The claimed feature does not patentably distinguish the claimed invention from the prior art since there is no step or method disclosed or taught on how the control of adding software or hardware is performed, the specification only states that the service provider may control the user's ability to add additional hardware or software".